IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No. 21136 of 2004

Between:

L. Vani, W/o Someswara Rao, aged about 28 years,
R/o D.No. 16-42, Mittakandriga Village, Ramachandrapuram Mandal,
Chittoor district.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Chittoor, Chittoor District.
2 The Mandal Revenue Officer, Ramachandrapuram Mandal,

Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents particularly the 1st respondent in suspending the petitioner pending enquiry as fair price shop dealer of Mittakandriga Village in Ramachandrapuram Mandal of Chittoor District in his Roc. (B) 2777/2004 dated 29-10-2004 without any reason or basis only on the allegation that the petitioner is not residing in the village even without issuing any show cause notice and without conducting any enquiry as illegal, unjust, arbitrary and against the principles of natural justice, without enquiry, without application of mind, extraneous and against the statutory provisions and consequently set aside the order passed by the 1st respondent in his Roc (B) 2777/2004 dated 29-10-2004

Counsel for the Petitioner: MR.L.J.VEERA REDDY

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.21136 OF 2004

ORAL ORDER :

The petitioner is an authorised dealer of the fair price shop of Mittakandriga Village of Ramachandrapuram Mandal, Chittoor District.

This writ petition is filed aggrieved by the order passed by the 1st respondent – Revenue Divisional Officer, Chittoor, dated 29-10-2004 whereunder the authorisation of the petitioner was suspended pending enquiry on the allegation that the petitioner is not residing in the village.

The learned Counsel for the petitioner vehemently contends that it is always open to the respondents to conduct an enquiry and take necessary action after considering the explanation offered by the petitioner, but having regard to the nature of the allegation, the suspension of the authorization is not warranted. He also contends that the allegation that the petitioner is not residing in the village is absolutely false and baseless.

As can be seen from the impugned order, the only allegation is that the petitioner is not residing in the village. The law is well settled that suspension pending enquiry cannot be made as a matter of course and that the licensing authority is bound to exercise the discretion reasonably and bona fide considering the facts and circumstances of the case. In all cases where it is possible to give an opportunity to the licensee, the licensing authority should not resort to the drastic step of suspension as an invariable rule. In the case on hand, since there

is no allegation of diversion of stocks to black-market or any other grave allegation of misappropriation, I find force in the contention of the learned Counsel for the petitioner that the suspension of authorization pending enquiry is not warranted. Instead, the first respondent ought to have issued a notice and conducted an enquiry into the allegations.

In the circumstances, while setting aside the impugned order dated 29-10-2004, the Writ Petition is disposed of leaving it open to the respondents to conduct an enquiry after affording due opportunity to the petitioner to rebut the allegations and pass appropriate orders in accordance with law. No costs.

Dsr

ASSISTANT REGISTRAR

To:

1. The Revenue Divisional Officer,

Chittoor, Chittoor District

2. The Mandal Revenue Officer,

Ramachandrapuram Mandal,

Chittoor District

3. Two CCs to the Government Pleader

for Civil Supplies, High Court Buildings,

Hyderabad (OUT)

4. Two CD copies.